

REPLACEMENT SECTION

The Applicant submits this Response to the Notice of Defective Appeal Brief in response to the notice mailed March 24, 2008. The Applicant's Appeal Brief has been returned as non-compliant for failure to separately map independent claims 19 and 32 to the specification. In response, the Applicant has attached a replacement section to be substituted for the defective portion of the original Appeal Brief, in accordance with MPEP 8th edition revision 6, section 1205.03(B). The Applicant respectfully requests that the defective portion of the Original Appeal Brief dated June 13, 2007, found on page 7 and entitled "Summary of the Claimed Subject Matter," be replaced by the following:

SUMMARY OF CLAIMED SUBJECT MATTER

Claimed embodiments of the invention provide a method for spray drying a feed stock containing a pharmaceutical agent. In the embodiment of independent claim 19, a method for spray drying a feed stock containing a pharmaceutical agent to produce particles suitable for pulmonary administration having a narrow particle size distribution includes the steps of providing a liquid feed stock comprising a pharmaceutically active agent selected from a list of active agents (page 6, line 33 – page 7, line 15), forcing the liquid feed stock into a manifold defined between a vibratable element (54) and a plate (61) and forcing the feed stock through the plate, the plate comprising holes (62) of at least one predetermined diameter, in order to produce liquid droplets (page 13, lines 12-24), drying the droplets in a gas stream (page 14, lines 24-32) to produce dried particles comprising a mass median aerodynamic diameter of less than 10 microns and a particle size distribution wherein at least 70% of the mass of the particles have a diameter within a 4 micron range

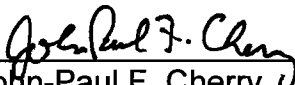
(page 9, lines 27-31), and collecting said dried particles (page 15, lines 16-18).

In the embodiment of independent claim 32, a method for spray drying a feed stock containing a pharmaceutical agent to produce particles suitable for pulmonary administration having a narrow particle size distribution includes the steps of providing a liquid feed stock comprising a pharmaceutically active agent selected from a list of active agents (page 6, line 33 – page 7, line 15), atomizing said feed stock in order to produce liquid droplets (page 13, lines 11-14), drying the droplets in a gas stream (page 14, lines 24-32) to produce dried particles comprising a mass median aerodynamic diameter of less than 10 microns and a particle size distribution wherein at least 70% of the mass of the particles have a diameter within a 4 micron range (page 9, lines 27-31), and collecting said dried particles (page 15, lines 16-18).

CONCLUSION

The Applicant respectfully requests that the above information be substituted into the Applicant's Appeal Brief dated June 13, 2007. In light of the substitution, the Applicant submits that the Appeal Brief is now compliant, and separately maps all independent claims to the specification. The Applicant respectfully urges that the rejection of claims 19-31 as being unpatentable under 35 U.S.C. § 103 is improper. Reversal of the rejection in the appeal is requested.

Respectfully submitted,



John-Paul F. Cherry
Registration No. 57,323
Patterson & Sheridan, L.L.P.
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Agent for the Appellant